REMARKS:

Claims 1, 5-8 and 10-19 are in the case and presented for consideration.

Claim 1 includes the subject matter of claims 1 and 4 and claim 5 has been amended to better focus the invention of the use of the optical wavelength filtering structure.

Two independent method claims are also retained in the form of claims 18 and 19 which correspond substantially to claims 1 and 5 but are presented as a combination of method steps rather than a combination of structural parts.

The specification and claims have been reviewed throughout with each of the objections noted by the examiner treated.

By this amendment thus it is believed that the application and claims are in proper form under 35 U.S.C. 112.

The examiner has also rejected claims 1-6, 7-14 and 17-21 as being fully anticipated by U.S. patent 5,348,003 to Caro.

The LEDs shown in Fig. 4 of the Caro patent are not arranged to emit light directly into the area of the human or animal tissue, as called for in amended claim 1 (previous claim 4) of the present application. The light in Caro is transferred as shown in Fig. 4 from the LEDs via fibers to a modulator 202 and afterwards again via a fiber optic 116 to the measuring array, where first, over a beam splitter and afterwards over focusing means, the light is emitted onto the tissue. In other words there is no direct light emission from the LEDs onto the tissue.

Furthermore, it is not true that Caro teaches the use of optical filters and furthermore frequency-sensitive detectors. The passages identified by the examiner, e.g. col. 10, lines

41-56, and col. 11, lines 28-32 of Caro, are in connection with Fig. 5 of the Caro patent, which describes the detector assembly for the light which has been split off the introduced light from the fiber optic 116 by the beam splitter 118. In this detector assembly 141 indeed filter elements and detectors are mentioned which, however, have nothing to do with the light transmission within the measuring array as described in the present application. The reason for filtering and detecting the light within the detector assembly 141 is a completely different one, as it refers to the control light, which has been split off as mentioned above. The Caro teaching, is in fact, quite different from the claimed invention.

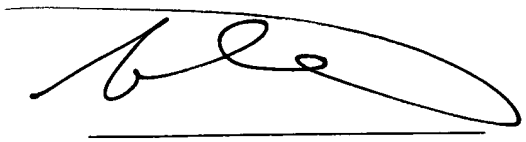
Claim 5 has been amended to call for the use of optical wavelength filters. This wavelength filter could be either as called for in claim 6, an optical double band pass filter, or can be included within the light receiver which has a detection-sensitivity to the two frequencies if the light source.

Claims 1, 5, 18 and 19 are thus believed to be novel over the prior art and in condition for allowance.

The remaining dependant claims further define the invention in a manner which is believed to even better distinguish the invention over the prior art so that allowance of these claims is also respectfully requested.

The examiner is invited to telephone the undersigned if any matters remain which can be treated by telephone interview in the interest of reaching a conclusion to the prosecution of this case.

Respectfully submitted,



Peter C. Michalos
Reg. No. 28,643
Attorney for Applicants
(845) 359-7700

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NOTARO & MICHALOS P.C.
100 Dutch Hill Road, Suite 110
Orangeburg, New York 10962-2100

Customer No. 21706